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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/961,092	09/24/2001	Jianming Ye	9351-75	5987

1059            7590            03/26/2003

BERESKIN AND PARR  
SCOTIA PLAZA  
40 KING STREET WEST-SUITE 4000 BOX 401  
TORONTO, ON M5H 3Y2  
CANADA

EXAMINER

KRISHNAMURTHY, RAMESH

ART UNIT      PAPER NUMBER

3753

DATE MAILED: 03/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/961,092	YE ET AL.
	Examiner Ramesh Krishnamurthy	Art Unit 3753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 21 January 2003.
- 2a) This action is **FINAL**.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.
- 4) Claim(s) 1 - 8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,3 and 4 is/are rejected.
- 7) Claim(s) 2 and 5-8 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 24 September 2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                    | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4,5</u> . | 6) <input type="checkbox"/> Other: _____ .                                   |

This office action is responsive to communications filed 01/21/2003.

**Claims 1 – 8 are pending.**

1. The drawings are objected to because of (a) the defects listed on the attached PTO-948 form and (b) Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 3 and 4 are rejected under 35 U.S.C. 102(e) as being anticipated by Bloom (US 6,418,956 B1).

Bloom ('956) discloses (Fig. 1) a back pressure valve (10, 20), comprising:

- (a) a first housing including a first chamber (chamber underneath the diaphragm (16) with the valve member (17) disposed therein) and in communication with the inlet (point of entry of first fluid (12)) and the outlet (point of exit of first fluid (14));
- (b) a second housing (portion of (10) above the diaphragm (16)) including a second chamber (18) formed therein;

(c) a flexible diaphragm (16) having an outer peripheral edge portion abutting the second housing and closing off the second chamber (18);

(d) a back pressure member (17) moveably disposed in the first chamber (chamber underneath the diaphragm (16) with the valve member (17) disposed therein) of the first housing, wherein the first chamber is defined by the first housing and the back pressure member;

wherein the flexible diaphragm (16) is fixed onto and moveable together with the back pressure member, whereby pressure in the second chamber determines fluid pressure required to maintain the back pressure member (17) in a steady position (Fig. 1 and Col.3, lines 55 – 58).

Regarding claim 3, it is noted that the second housing (portion of (10) above the diaphragm (16)) includes at least one port (entry port for fluid (25) in Fig. 1 into the second chamber (18)) for supply of second fluid (25) to the second chamber (18) to set the pressure in the second chamber (18) and thereby determine said preset pressure required to maintain the back pressure member in steady position (Col. 3, lines 55 – 59 & Col. 4, lines 6 – 9).

Regarding claim 4, it is noted that Fig.1 shows the first housing defines a bore, wherein the fluid inlet and fluid outlet open into (i.e. fluidly communicate with) the bore (since the fluid from the inlet has to pass through the bore before exiting the housing via the outlet), and wherein the back pressure member (17) is slidably mounted in the bore for movement within the bore.

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4. Claims 2 and 5 – 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record neither shows nor teaches a combination for the claimed valve that comprises in combination with other elements recited (a) a back pressure member that is moveable to a closed position in which the passage between the fluid inlet from the fluid outlet is sealed off or (b) a sleeve member disposed within the first housing and providing the bore for the back pressure member, the sleeve member being fixed onto the first housing.

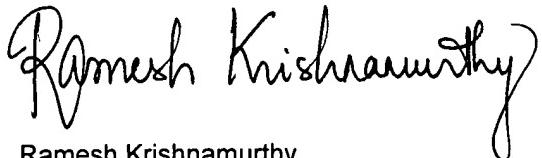
6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Brunning discloses a diaphragm controlled valve. Haines et al. discloses an integrated process control valve. Engel discloses a compact controller for a control valve.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramesh Krishnamurthy whose telephone number is (703) 305 - 5295. The examiner can normally be reached on Monday - Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael P. Buiz, can be reached on (703) 308 - 0871. The fax phone number for the organization where this application or proceeding is assigned is (703) 308 - 7765.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308 - 0861.



Ramesh Krishnamurthy

Examiner

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March 24, 2003